



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ratification of Employment Agreement Entered into Between City Manager Blair King and Electric Utility Director (selected candidate will be announced and included on the employment agreement at the time of the Council meeting)

MEETING DATE: January 4, 2006

PREPARED BY: City Manager


RECOMMENDED ACTION: Adopt Resolution ratifying the terms of the employment agreement entered into between City Manager Blair King and Electric Utility Director (selected candidate will be announced at the time of the Council meeting).

BACKGROUND INFORMATION: The City Manager will announce the name of the selected candidate for the Electric Utility Director position in a revised Council Communication and employment agreement to be handed out at the Council meeting on January 4, 2006. Sixteen applications were received for the position and interviews were conducted on December 14, 2005 of the top six candidates. The City Manager will complete his interviews and background review of the top three candidates by the time of the Council meeting.


Lodi Municipal Code Section 2.12.060 vests with the City Manager the power to select subordinate staff. The City Manager wishes to provide the terms and conditions related to employment that extends beyond the Manager's authority and therefore requires ratification by the City Council. The proposed Employment Agreement provides for a six-month severance payment if the Electric Utility Director is terminated without cause, and it is a two-year "term" agreement. As has been previously indicated to City Council, it is the Manager's intention to have all members of the Executive Management Team under a "standard employment agreement. It has been noted previously that the City has evolved into a practice that some members of the City's Executive Management Team have employment agreements with severance provisions while others do not. A copy of the Employment Agreement is attached. The starting salary for this position has been adjusted to reflect a very competitive market for Electric Utility Directors.

FISCAL IMPACT: The hiring of a permanent Electric Utility Director is expected to positively impact the financial stability of this department. One of the areas that will be positively impacted will be a stabilization of the electric energy purchase costs through implementation of a energy risk management policy by the new director. It is anticipated that the new director will also provide financial stability in the areas of rate analysis and operational efficiencies.

FUNDING AVAILABLE: The previous Electric Utility Director was paid \$140,628 annually and the budget for this position is \$144,425 (the budget included a prospective cost of living increase of \$3,797). Funding is available for the Electric Utility Director from savings in the Electric Utility Department budget.



Ruby Paiste, Interim Finance Director



Blair King, City Manager

Attachments: Employment Agreement

RESOLUTION NO. 2006-11

A RESOLUTION OF THE LODI CITY COUNCIL
RATIFYING THE EMPLOYMENT AGREEMENT
ENTERED INTO BETWEEN CITY MANAGER
AND ELECTRIC UTILITY DIRECTOR

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby ratify the Employment Agreement entered into between City Manager Blair King and Electric Utility Director George Morrow, as shown on Exhibit A attached hereto, and does establish a new control point for the Electric Utility Director of \$140,386.

Dated: January 4, 2006

I hereby certify that Resolution No. 2006-11 was passed and adopted by the City Council of the City of Lodi in a regular meeting held January 4, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, and
Mayor Hitchcock

NOES: COUNCIL MEMBERS – Mounce

ABSENT COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

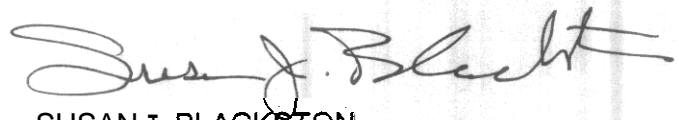

SUSAN J. BLACKSTON
City Clerk

EXHIBIT A**EMPLOYMENT AGREEMENT****Executive Management
Exempt Service****Electric Utility Director**

THIS AGREEMENT entered into on January 4, 2006, by and between the CITY OF LODI, a municipal corporation (hereinafter referred to as "City") and George F. Morrow, an individual (hereinafter referred to as "Employee").

WHEREAS, City desires to employ the services of Employee as Electric Utility Director; and

WHEREAS, Employee desires to serve as Electric Utility Director for the City beginning January 23, 2006; and

WHEREAS, City and Employee agree in writing to the terms and conditions of employment as Electric Utility Director; and

WHEREAS, Employee and City agree and acknowledge that Employee's employment as Electric Utility Director is his sole and exclusive employment with City, and that their employment relationship is governed solely and exclusively by this Agreement.

NOW, THEREFORE, in consideration of the promises and conditions set forth herein, the parties mutually agree as follows:

1. **Employment:** City agrees to employ Employee as Electric Utility Director, in accordance with the following provisions:

(a) Employee shall serve as Electric Utility Director, and shall be responsible for managing and directing the operations of the Electric Utility Department in accordance with an agreed upon performance plan.

(b) Employee shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations established by the City.

(c) Employee shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Employee shall comply fully with his reporting and disclosure obligations under regulations promulgated by the Fair Political Practices Commission (FPPC).

(d) Employee agrees to remain in the exclusive employ of the City during the term of this Agreement. Employee shall dedicate his full energies and qualifications to his employment as Electric Utility Director, and shall not engage in any other employment except as may be specifically approved in writing in advance by the City Manager.

2. **Maintenance of Professional Expertise:** To ~~promote~~ continued professional growth and benefit to the City, Employee shall, at ~~City expense~~ and consistent with budgetary constraints: maintain membership in professional ~~or~~ organizations related to city utility administration and related professional disciplines; attend workshops, seminars and other similar activities designed to advance Employee's professional development: ~~and, represent the City in professional associations and other organizations.~~

3. **Term:** The term of the Agreement shall be ~~for~~ a period of **two (2) years**, commencing **January 23, 2006**, until terminated by either party in accordance with the provisions set forth in Paragraph 4, or until terminated by the event of the death or permanent disability of Employee. The Agreement may be renewed, without amendment by the **City Manager** and Employee, or with amendment by the parties (i.e. with **Council** consent), no later than eighteen (18) months **after commencement of Employee's employment with City.**

4. **Resignation or Termination:**

(a) Employee may resign at any time and agrees to give City **at least 30 days** advance written notice of the effective date of his resignation. In such event, **Employee shall not** be entitled to Severance pay as provided in Paragraph 5 herein.

(b) The parties recognize and affirm that Employee may be **terminated by the** City Manager with cause, which shall mean **gross** insubordination, incapacity, dereliction of duty, conviction of a crime involving acts of moral turpitude or **involving personal gain to him**, or material breach of this Agreement. In such event, Employee shall not be entitled to **severance pay as** provided in Paragraph 5 herein.

(c) The parties recognize and affirm that Employee may be **terminated by the** City Manager without cause. In such event, Employee shall be entitled to **severance pay as** provided in **Paragraph 5 herein.**

(d) In the event of **termination** and in recognition of Employee's professional status and integrity, Employee and the City Manager shall **prepare a joint public statement to be made by the City Manager. This employment relationship is based on the mutual respect between the parties and a desire to maintain the highest degree of professionalism. In communicating with third parties about the parties' employment relationship and the circumstances under which it may have been severed, the parties shall (a) protect and advance their mutual respect and professionalism, and (b) refrain from making statements that would negatively impact either party.**

(c) Employee may choose to resign ~~or retire~~ his office instead of being terminated if agreed to by the City Manager. In such an event the public announcement, as provided for in Paragraph 4 (d) above, will **note** Employee has resigned or **retired.** The provisions of Paragraph 4 (d) **shall** remain applicable.

5. **Severance Pay:** If Employee is terminated by the City Manager without cause while still willing and able to **perform** the duties of Electric Utility Director, City **agrees to pay** Employee a cash payment equal to **six (6) months' aggregate salary and the City's cost of six (6) months' health insurance benefits subject to reduction as set forth in this Paragraph 5. The severance payment will be paid over time at the same time as other employees of the City are paid and subject to customary withholdings. In the event Employee retains new employment during the six month severance period, any remaining severance payment will be forfeited as of**

the date Employee begins his new Employment. To be eligible for such severance pay, Employee shall fulfill all of his obligations under this Agreement, and shall sign an Acknowledgment and Release of Claims against the City. Payment under this paragraph will release City from any further obligations under this Agreement, or any other transaction between the parties.

6. Employment as Department Head is Sole Employment with City: Employee further represents and acknowledges that his employment as Electric Utility Director is his sole and exclusive employment with the City. Employee has no right to any other exempt position with the City, or to any employment in the classified service.

7.

- a. City agrees to pay Employee \$144,425 in salary per annum for his services, payable in installments at the same time as other employees of the City are paid and subject to customary withholding.
- b. Thereafter, a salary increase of up to seven percent (7%) may be granted by the City Manager after the first twelve months of employment with a satisfactory performance evaluation.

8. Benefit: The City shall provide Employee the same benefits as provided to management employees in accordance with the terms of the Executive Management Statement of Benefits dated 1998 and as they may be amended, increased or decreased, except as modified herein. These are the sole and exclusive benefits to be provided to Employee. Any improvement or modification of such benefits may only be made by Written instrument signed by the City Manager. As used herein, benefits include, but are not limited to: vacation, sick leave, holidays, administrative leave, retirement, vision insurance, health insurance, dental insurance, long term disability insurance and life insurance. Employee's vacation leave shall be calculated as if Employee was in his sixth year of employment (i.e., Employee shall accrue fifteen days of vacation per year increasing from there as provided in the Executive Management Statement of Benefits.) Employee will also earn and accumulate sick leave and vacation as provided in the Executive Management Statement of Benefits.

9. Performance Evaluation: The City Manager shall review and evaluate the performance of Employee each year and set goals and objectives for the ensuing year. Such review and evaluation shall be in accordance with specific criteria developed in the performance plan in consultation with Employee and the City Manager.

10. Assignment: Employee shall not assign any of the duties and responsibilities, or obligations of this Agreement except with the express written consent of the City Manager.

11. Authority to Work in the United States: Employee represents, under penalty of perjury, that he is authorized to work in the United States. In accordance with §274A (8 USC 1324) of the Immigration Reform and Control Act of 1986 before this Agreement can become effective, Employee must provide documentary evidence to City consistent with the Act, that he is legally entitled to work in the United States, and must execute the verification required by that Act.

12. **Cell Phone/Vehicle:** Employee will be provided with a Cell Phone for employment related use at the City's expense on terms consistent with other Executive Managers. Employee will also be provided with access to the Administration Pool Car for work related use on an as available basis.

13. **Relocation Expenses:** City agrees to pay Employee up to \$3,000 for costs related to relocations, including, but not limited to, moving expenses and temporary housing. Payment will be made upon a reimbursement basis upon submission of receipts. In the event that Employee voluntarily terminates his employment with the City within twenty four (24) months of this Agreement, Employee shall reimburse the City for any expenses actually reimbursed to him under this paragraph.

14. **Notice:** All notices required herein shall be sent first class mail to the parties as follows:

To CITY:

City of Lodi
P. O. Box 3006
Lodi, CA 95241-1910

To EMPLOYEE:

George Morrow
1604 Dickinson Rd.
Independence MO 64050

Notice shall be deemed effectively served upon deposit in the United States mail. Either party may change the address notices are to be sent to them by notifying the other party in writing of such change.

15. **Entire Agreement:** This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by ~~my~~ party hereto. This Agreement may only be amended by written instrument signed by Employee and the City Manager and specifically approved by the City Council in open session.

{CONTINUED ON NEXT PAGE}

16. Severability: If any provision of this Agreement is invalid or unenforceable, it shall be considered deleted herefrom and the remainder of this Agreement shall be unaffected and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written above.

EMPLOYEE

By: George F. Morrow

CITY OF LODI, a municipal corporation

By: _____

Blair King
City Manager

ATTEST:

By: _____

Susan Blackston
City Clerk

APPROVED AS TO FORM:

Steve Schwabauer
City Attorney